IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3874 OF 2007

Shri Nisar Ahmed Manzoor Ahmed
and anr. ...Petitioners
Versus
Bhwandi Nizampur City
Municipal Corpn.and anr. ....Respondents

Anita G. Bhaktwani for the petitioners.
Mr.G.J.Paryani for respondent no.2.

CORAM: S.C.DHARMADHIKARI, J.

29th November, 2007

P.C. :

1. The Bhiwandi Nizampur City Municipal Corporation who are party defendants to the suit instituted by the petitioners and which suit is pending in the Trial Court namely Civil Judge, Junior Division, Bhiwandi being Reg.C.S.No.619 of 2006, challenged an order passed by the Trial Court granting temporary injunction in favour of the present petitioner restraining it from demolishing the suit property or part thereof till the final disposal of the suit. The challenge was raised in the court of District Judge-I, Thane by filing Misc.Civil Appeal No.1 of 2007. The lower appellate court has reversed that order by its

judgment and order dated 3.5.2007. The order was reversed only on the ground that the Trial court granted blanket injunction without in any manner specifying that the Corporation will not be prevented from following the due process of law. After the matter was argued for some time, the parties agreed that the following interim order in the suit will meet the ends of justice.

2. The Corporation is temporarily restrained from demolishing the suit property/premises/building, save and except, by due process of law. This does not prevent the Corporation from resorting to the provisions of the Bombay Provincial Municipal Corporation Act, 1949 or the Maharashtra Regional Town Planning Act, 1966 or such other law which permits them to initiate any action in respect of the construction and proceed to take such steps as are permissible therein. Petition is allowed. The impugned order is quashed and set aside and instead the injunction as granted by the Trial Court would continue subject to the above modification. All contentions of both sides on merits are expressly kept open.

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